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**JUN 28 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Boris E. Paton et al :  
Application No. 10/673,358 : ON PETITION  
Filed: September 20, 2003 :  
Attorney Docket No. :  
7704.003DIV2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **DISMISSED** as premature.

A review of the record discloses that a final Office action was mailed on September 28, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 28, 2006 or on or before March 28, 2007, with the appropriate extension of time fee. The present petition to revive was accompanied by a request for Continued Prosecution Application (treated as a Request for Continued Examination (RCE) under 37 CFR 1.114<sup>1</sup>) and an amendment, which is captioned for the reply to the Office action of June 29, 2006.

As this application was not abandoned at the time of filing of the RCE and reply (for the Office action of June 29, 2006) on November 15, 2006, and the record fails to show that the Examiner has held this application as abandoned, the petition is deemed to be premature at this time. Should the Examiner hold this application abandoned for failure to file a proper reply to the

<sup>1</sup> Effective July 14, 2003, the continued prosecution application (CPA) practice set forth in 37 CFR 1.53(d) was eliminated as to utility and plant applications. An improper CPA in a utility application filed on or after June 8, 1995 will be treated as a request for continued examination under 37 CFR 1.114. See MPEP Sections 201.06 and 212.06(d).

outstanding Office action of September 28, 2006, then it would be appropriate at that time to submit a petition to revive.

In view of the dismissal of this petition as premature, petitioner may request a refund of the \$750 submitted by writing to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the above address of record until otherwise notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2318.

This application is being referred to Technology Center AU 3739 for processing of the RCE and for such further action as the nature of the case requires.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks  
Petitions Examiner  
Office of Petitions

cc:

Charles W. Hanor  
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San Antonio, TX 78205